



July 22, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: Written Ex Parte Communication, MB Docket Nos. 14-50, 09-182, 07-294

Dear Ms. Dortch:

Although the Commission determined more than a decade ago that the print newspaper rule no longer serves the public interest,¹ an FCC fact sheet reports that the broadcast ownership order circulating for vote would make no serious modifications to the rule.² In light of this, the National Association of Broadcasters (NAB) is filing for the record the attached information regarding the plight of print newspapers for the Commission's consideration.³ The attached

¹ See *Prometheus Radio Project v. FCC*, Nos. 15-3863, 15-3864, 15-3865 & 15-3866, at 38 (3d Cir. May 25, 2016) (*Prometheus III*) ("[T]he 1975 [cross-ownership] ban remains in effect to this day even though the FCC determined more than a decade ago that it is no longer in the public interest. This has come at significant expense to parties that would be able, under some of the less restrictive options being considered by the Commission, to engage in profitable combinations.").

² FCC, *Fact Sheet: Updating Media Ownership Rules in the Public Interest* (rel. Jun. 27, 2016).

³ Since July 6, NAB has filed various articles discussing the challenges faced by print newspapers and the public's increasing reliance on non-print outlets for news and information. See NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 6, 2016) at Attachment, David Glance, "The story of the nosebleed decline of the newspaper industry told in pictures," *The Conversation* (June 5, 2016), available at: <http://theconversation.com/the-story-of-the-nosebleed-decline-of-the-newspaper-industry-told-in-pictures-60530>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 7, 2016) at Attachment, Noah Kulwin, "Jeff Bezos is saving the Washington Post, but he won't be able to save newspapers," *recode* (June 28, 2016) available at: <http://www.recode.net/2016/6/28/12050416/jeff-bezos-saving-washington-post-but-not-newspapers>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 8, 2016) at Attachment, Erik Sass, "Print Ad Declines: Newspaper, Magazine Revs Fall Again," *Publishers Daily, TheDailyBlog*, (June 27, 2016), available at: <http://www.mediapost.com/publications/article/279073/printaddeclinesnewspapermagazinerevsfalla.html?print>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 11, 2016) at

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article discusses how cities are dealing with a glut of now empty newspaper vending machines: “Sometimes made of metal, other times of plastic, some coin-operated or chained to street signs, the boxes tell a story of a changing industry in which consumers of news now carry around iPhones instead of coins and publications get thinner and thinner until they disappear.”⁴ The story reports that *The New York Times* was once available in 13,300 such boxes. Today, the number in the entire country is 39.⁵

To the extent that Commission’s rationale for restricting print newspaper ownership relates to viewpoint diversity or independent “voices,” NAB notes that a newspaper that has closed its

Attachment, Athena Cao, "Newspapers' woes linger as digital ad spending, cable network revenues rise," USA Today, (June 15, 2016), available at: <http://www.usatoday.com/story/money/2016/06/15/news-media-yahoo-google-twitter-facebook-verizon-tv/85937176/>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 12, 2016) at Attachment, Joshua Benton, "Tampa just lost a daily newspaper; is this the continuation of an old trend or the start of a new one?," NiemanLab, (May 4, 2016), available at: <http://www.niemanlab.org/2016/05/tampa-just-lost-a-daily-newspaper-is-this-the-continuation-of-an-old-trend-or-the-start-of-a-new-one/>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 13, 2016) at Attachment, Nick Madigan, "An Abrupt End to The Tampa Tribune After a Blow Delivered by Its Rival," The New York Times, (May 20, 2016) available at: <http://nyti.ms/256WgNS>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 14, 2016) at Attachment, Patrick Seitz, "Facebook, Google Cash in on Ads as News Media Firms Struggle," Investor's Business Daily (June 15, 2016) available at: <http://www.investors.com/news/technology/click/facebook-google-cash-in-on-ads-as-news-media-firms-struggle/>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 15, 2016) at Attachment, Margaret Sullivan, "Face it, Facebook. You're in the News Business," Washington Post (July 10, 2016), available at: https://www.washingtonpost.com/lifestyle/style/face-it-facebook-youre-in-the-news-business/2016/07/10/cc53cd70-451a-11e6-bc99-7d269f8719b1_story.html ("With the advent of live-streaming options — Facebook Live and Periscope, primarily — their already huge influence in the news universe has taken another stunning leap."); NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 18, 2016) at Attachment, Benny Evangelista, "Americans turning to mobile phones for news, Pew study shows," SFGate.com (July 7, 2016), available at: <http://www.sfgate.com/business/article/Americans-turning-to-mobile-phones-for-news-Pew-8344673.php>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 19, 2016) at Attachment, Dan Tynan, "Democracy in Action on Twitter's Live Stream," Consumer Reports (July 16, 2016), available at: <http://www.consumerreports.org/phones-mobile-devices/watch-the-convention-coverage-on-twitters-live-stream/>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 20, 2016) at Attachment, Dan Kennedy, "Print Is Dying, Digital Is No Savior: The Long, Ugly Decline of The Newspaper Business Continues Apace," WGBH News, (January 26, 2016), available at: <http://news.wgbh.org/2016/01/26/local-news/print-dying-digital-no-savior-long-ugly-decline-newspaper-business-continues>; NAB Ex Parte in MB Docket Nos. 14-50, 09-182, 07-294 (filed July 21, 2016) at Attachment, David Chavern, "Commentary: FCC Rule Limits Newspapers' Access to Capital, Growth," Philly.com (July 18, 2016), available at: <http://www.philly.com/philly/opinion/20160718 Commentary FCC rule limits newspapers access to capital growth.html>.

⁴ Max Kutner, "As Print Journalism Declines, Fate of Sidewalk Newspaper Boxes is Unclear," Newsweek (Dec. 20, 2015), available at: <http://www.newsweek.com/2016/01/15/decline-newspaper-boxes-407158.html> (attached hereto).

⁵ *Id.*

doors can no longer provide a viewpoint or serve as a “voice.” Retaining a rule that deters investment by broadcasters in the struggling print newspaper industry certainly cannot serve the public interest. Rather, the only result that can rationally be expected from the continued prohibition is to hasten the demise of print newspapers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal line extending to the right.

Rick Kaplan
General Counsel and Executive Vice President
Legal and Regulatory Affairs

Attachment

As print journalism declines, fate of sidewalk newspaper boxes is unclear

By [Max Kutner](#) On 12/20/15 at 10:32 AM



01/15/16

In the Magazine

With manufacturers scaling back production, alternative newsweeklies closing and community members complaining, times are tough for the sidewalk newspaper box. Chris Wattie/Reuters

Newspaper boxes are ubiquitous along city streets, so it's easy to forget they're there. Sometimes made of metal, other times of plastic, some coin-operated or chained to street signs, the boxes tell a story of a changing industry in which consumers of news now carry around iPhones instead of coins and publications get thinner and thinner until they disappear.

In recent months, changes in print journalism markets hit New York City, Philadelphia and Seattle. Those cities, like others across the country, are all trying to figure out what to do with their newspaper boxes (sometimes called newspaper vending machines, newspaper racks, newsracks or honor boxes). In October, *Philadelphia City Paper*, which was available free of charge in orange metal boxes, went out of print. Days later, the *Village Voice*, which in New York City is made available in red plastic boxes, announced it had a new owner. This month, *Seattle Weekly*, in red metal boxes, [reportedly](#) laid off nearly a third of its employees because of costs.

Given the state of newspaper boxes in those cities, it's no surprise that publications are shifting strategy or shuttering altogether: In Philadelphia, where city code requires licenses for the boxes, there were 527 of them this year, the city says. A decade ago, the number was 1,401; In New York, where the Department of Transportation regulates the boxes, there were 10,000 registered this year, the city says. That's down from more than 12,500 registered just three years ago.

Seattle estimates it has 2,500 boxes but doesn't require licenses, which has made it easy for boxes to fall into disrepair. Responding to complaints by locals about the boxes, the city launched [a web portal](#) in September so that people can submit requests for maintenance or relocation directly to the publishers. So far there have been 59 submissions, the city says.

Print journalism insiders say the history of the boxes traces back to Kaspar Companies, founded under a different name in 1898 by August Kaspar. According to the company, August's son invented the first ever coin-operated newspaper vending machine, in the 1950s. In the decades that followed, it shipped 2 to 3 million units, the company says.

USA Today, founded in 1982, is widely credited with the newspaper box boom of the 1980s and early 1990s. The publication's white boxes, shaped like television sets, seemed to be everywhere. Kaspar Companies takes credit for manufacturing many or most of those boxes. "We were triple-shifting our factory, working around the clock. That was a wild couple of years," says CEO David Kaspar, the great-grandson of August. Business had been good before then, he adds, but *USA Today* "gave it a real shot in the arm."

A competing manufacturer, K-Jack Engineering Company, also takes credit for the *USA Today* boxes. "We couldn't get them out fast enough," says Steve Ruitenschild, sales manager at K-Jack. "It was very lucrative."

(The competition grew so heated that Kaspar Companies once [sued](#) K-Jack for patent infringement; a court ruled in favor of Kaspar Companies.)

"After *USA Today* launched, all the other papers started jumping on," says Kathy Kahng, owner of CityRax, which manages modular newspaper box units for business improvement districts.

Later in the 1990s, the tide turned. Newspaper box sales began dropping off and publishers cut locations. According to data collected by the Newspaper Association of America, in 1996, newspaper boxes accounted for about 46 percent of single-sale daily newspapers. In 2014, that percentage was down to 20. And in 2008, daily newspapers had on average 210 newspaper boxes. In 2014 the number was 128.



Industry insiders blame several factors for the demise of newspaper boxes, including declining print readership and higher single-sale prices.

Jef Poskanzer

A 2009 CNN [piece](#) on the future of the boxes said *The New York Times* had 5,678 boxes at the time, down from 13,300 a decade earlier. Now, a spokeswoman for the *Times* tells *Newsweek*, the number in the entire country is 39. The publication has not purchased a new box in more than five years.

“It’s not been a little decline,” says Ruitenschild. “It’s fallen off the cliff.”

Publishers and box manufacturers blame different factors: the Internet and declining print readership; an increase in sales at indoor locations such as convenience stores; the recession; the rising price of single-sale newspapers. “Unless you’re traveling to the laundromat, nobody walks around with eight quarters,” Kahng says.

Even as recently as 2009, David Kaspar’s father told CNN: “There’ll be printed newspapers for years and years.” But in August, Kaspar Companies abandoned the industry it had helped start half a century earlier. “It pretty much dried up...so we’ve moved on,” David Kaspar says. “We weren’t losing it to competitors, it just wasn’t there anymore.” Now the company, based in Shiner, Texas, focuses on metal pickup truck accessories and precious metals.

K-Jack has scaled back too. “We’re lean and mean,” Ruitenschild says. “We really cut it to the bone.”

Some people don't feel so nostalgic for the heyday of the boxes. Community groups and city officials around the country have launched campaigns or been involved in lawsuits against publishers; at least two cases even went to the Supreme Court.

In 2011, Civitas, a nonprofit that monitors quality of life issues in New York City, drafted a petition to the city council, urging it to implement policies that would step up box maintenance and regulation. The organization's website [features pictures](#) of blighted newspaper racks.

"Most major cities really didn't even have any regulations for boxes. And cities were kind of scared of dealing with the publishers so they just kind of let it go," Kahng says. Now, however, "cities are getting more strict about having regulations and licenses."

Some cities say newspaper boxes must be of a certain color. San Francisco allows only fixed boxes and has a 20-year contract with Clear Channel Outdoor for modular units. (*The Boston Globe* [once misidentified](#) the resulting non-fixed newspaper box graveyard there as a sign of the recession.) In 2002, New York Mayor Michael Bloomberg [called for](#) more newspaper box regulations, which the city council passed. Last year, Seattle updated its vague regulations for where newspaper boxes could be placed and how they should be maintained.

K-Jack says metal boxes offering free papers typically cost between \$200 and \$400, and coin-operated ones can run \$280 to \$600. The costs don't end there. "Newsracks require multiple steps to maintain the delivery cycle. It begins with the delivery of newspapers each day, recording the number of daily sales and the collection of coins used by our readers to purchase the newspaper. Every layer of responsibility is an expense," Joe Schaechter, trustee of the Central States Circulation Managers Association, says by email.

John Murray, vice president of audience development at the Newspaper Association of America, says some publications have even gone "cold turkey"—that is, pulled all of their boxes. A webinar Murray organized in October on the subject of declining single-sales had "almost record attendance," he says.

Jay Sterin, general manager of *Philadelphia Weekly*, which acquired the intellectual property of *Philadelphia City Paper*, says they picked up most of the *City Paper* boxes and put them in storage. Others will be repurposed with the *Weekly's* logo.

Boxes aren't always so lucky. Tiffany Shackelford, executive director of the Association of Alternative Newsmedia, says that when a publication closes, some boxes get sold as assets or scrap. Others can be "left to languish until the city does something about them."

Because alternative newsweeklies, like the *Village Voice*, are typically free and don't rely on the boxes to make money, those publications see the boxes in a different, more affectionate light. "It certainly is one of the things that is great for morale," Shackelford says, of seeing the boxes along sidewalks. "In some of the smaller markets these are definitely sort of a nod and wink to those in the know that this is kind of a cool paper in town."

For other people in the journalism world, the boxes play an even more important function; as the Newseum [has said](#), they are reminders of free speech and provide an essential way for journalists to disseminate it.